

BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF
LEWIS C. STOLTZ, JR., dba
STOLTZ AUTO WRECKERS and
FRED SCHLICK,

Appellants,

v.

PUGET SOUND AIR POLLUTION
CONTROL AGENCY,

Respondent.

PCHB No. 81-120

FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER

This matter, the appeal of a \$250 civil penalty for outdoor burning allegedly in violation of Respondent's Section 8.02(3) of Regulation I came on for hearing before the Pollution Control Hearings Board, Gayle Rothrock, Vice Chairman, and David Akana, Member, convened at Lacey, Washington on December 7, 1981. William A. Harrison, Administrative Law Judge, presided. Respondent elected a formal hearing pursuant to RCW 43.21B.230.

Appellants appeared by their attorney, Fred Schlick, who is also

1 an appellant in this proceeding. Respondent appeared by its attorney
2 Keith D. McGoffin. Reporter Lois Fairfield recorded the proceedings.

3 Witnesses were sworn and testified. Exhibits were examined. From
4 testimony heard and exhibits examined, the Pollution Control Hearings
5 Board makes these

6 FINDINGS OF FACT

7 I

8 Respondent, pursuant to RCW 43.21B.260, has filed with this Board
9 a certified copy of its Regulation I containing respondent's
10 regulations and amendments thereto, of which official notice is taken.

11 II

12 Shortly after midnight on June 16, 1981, the Vashon Fire
13 Department (District No. 13) responded to a call regarding a large
14 fire on appellants' property. They discovered a fire approximately 60
15 feet long, 30 feet wide and 20 feet high from which flames and smoke
16 rose 80 feet into the air. The material being burned was primarily
17 stumps and brush from land clearing. Also within the fire were nearly
18 100 tires.

19 III

20 Appellant Lewis C. Stoltz, along with his son Tom, operate both a
21 land clearing business and an automobile wrecking business. They
22 arranged and ignited this fire within the fenced and locked area where
23 autos are salvaged. Appellant Fred Schlick has an ownership interest
24 in the land where the fire was located but was not shown to share in
25 the profits of the businesses nor to have personally arranged or
26 ignited the fire.

IV

Upon the fire department's relation, respondent issued a Notice and Order of Civil Penalty to appellants assessing a civil penalty of \$250 for violation of Section 8.02(3). This section prohibits outdoor fires containing petroleum products, rubber or plastic. From this penalty, appellants appeal.

V

Any Conclusion of Law which should be deemed a Finding of Fact is hereby adopted as such.

From these Findings the Board enters these

CONCLUSIONS OF LAW

I

Appellant Lewis C. Stoltz, Jr., dba Stoltz Auto Wreckers caused or allowed the outdoor fire in question which contained about 100 tires and violated respondent's Section 8.02(3).

Appellant Fred Schlick did not cause or allow the outdoor fire in question and did not violate Section 8.02(3), and any penalty should be stricken as to him.

II

The penalty is reasonable in amount.

III

Any Finding of Fact which should be deemed a Conclusion of Law is hereby adopted as such.

From these Conclusions the Board enters this

FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW & ORDER

ORDER

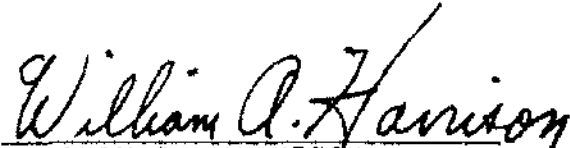
The \$250 civil penalty is affirmed as to Lewis C. Stoltz, Jr., dba Stoltz Auto Wreckers, and reversed as to Fred Schlick.

DONE this 11th day of December, 1981.

POLLUTION CONTROL HEARINGS BOARD


GAYLE ROTHROCK, Vice Chairman


DAVID AKANA, Member


WILLIAM A. HARRISON
Administrative Law Judge

FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW & ORDER